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SERVICE DATE - SEPTEMBER 11, 2001

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34089]

Saginaw Valley Railway Company—Joint Relocation Project Exemption—Huron and Eastern Railway Company

On August 23, 2001, Saginaw Valley Railway Company, Inc. (Saginaw Valley) filed a notice of exemption under 49 CFR 1180.2(d)(5) to participate in a joint relocation project with the Huron and Eastern Railway Company, Inc. (Huron and Eastern). The transaction was scheduled to be consummated on or after August 30, 2001.

Saginaw Valley owns and operates over 55 miles of railroad in the State of Michigan (1) between Traveler, milepost 4.5, and Brown City, milepost 55.8, and (2) between Harger, milepost 4.6, and Richville, milepost 14.1 (Harger Line).

Huron and Eastern, owns and operates about 171 miles of railroad in the State of Michigan including (1) the main line between Saginaw, milepost 0.0, and the end of track at Croswell, milepost 108.3 (including Buena Vista, at milepost 3.0); and (2) branch lines between (a) Harger, milepost 4.6, and Denmark Junction, milepost 15, (b) Munger, milepost 100.6, and Millington, milepost 79.6, (c) Vassar, milepost 0.0, and Colling, milepost 22.1 (Vassar Sub), (d) Bad Axe, milepost 0.0, and Kinde, milepost 9.4, (e) Palms, milepost 82.4, and the end of the line via Ruth, milepost 8.69, and (f) Sandusky, milepost 0.66, and the main line between Deckerville and Carsonville.

According to Saginaw Valley, the sole purpose of its Harger Line has been to access the Central Michigan Railway Company (Central Michigan) interchange at Harger, at milepost 4.6. Saginaw Valley maintains that it has no customers on its Harger Line between milepost 4.6 and milepost 13.2 but that there is an active customer east of milepost 13.2 in Richville. Saginaw Valley points out that, because of the Harger Line's poor track condition, traffic routed west from Richville to Harger moves at speeds below 10 miles per hour. Further, Saginaw Valley states that some of its Central Michigan bound traffic originates on Saginaw Valley lines and some originates on Huron and Eastern lines. Much of this traffic currently has to move via the Vassar Sub from Reese, MI, to Denmark Junction, to Harger, and return to Reese, a trip that takes up to 5 hours due to the poor track conditions of the Harger Line.¹

A new interchange with the Central Michigan has been established at Buena Vista.² Under the joint relocation project, Huron and Eastern will grant Saginaw Valley haulage rights over its line. The Saginaw Valley traffic that was interchanged to the Central Michigan via Harger will be rerouted east to Denmark Junction, then onto the Saginaw Valley, north to Reese, and west to the new Buena Vista interchange. Under the relocation project, Saginaw Valley originated traffic is expected to reach the interchange

¹ Saginaw Valley notes that the majority of its traffic moving via Harger to the Central Michigan originates on the Huron and Eastern.

² According to the verified notice of exemption, Huron and Eastern also interchanges traffic to the Central Michigan. Huron and Eastern traffic that was previously interchanged at Harger to the Central Michigan will be interchanged to Central Michigan at Buena Vista.

point with Central Michigan at least 2 hours faster and Huron and Eastern originated traffic is expected to reach the interchange point with Central Michigan up to 5 hours faster. Upon commencing hauling operations over the Huron and Eastern, Saginaw Valley will abandon service over its Harger Line between milepost 4.6 and milepost 13.2.

The proposed joint relocation project will not disrupt service to shippers. Saginaw Valley seeks to serve its customers more efficiently and at a lower cost and Huron and Eastern seeks to increase traffic density over the line that Saginaw Valley will use and revenue from the contribution to be made from the usage fees to be paid by Saginaw Valley.

The Board will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into new territory. See City of Detroit v. Canadian National Ry. Co., et al., 9 I.C.C.2d 1208 (1993), aff'd sub nom. Detroit/Wayne County Port Authority v. ICC, 59 F.3d 1314 (D.C. Cir. 1995). Line relocation projects may embrace trackage rights transactions such as the one involved here. See D.T.&I.R.--Trackage Rights, 363 I.C.C. 878 (1981). Under these standards, the incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.--Trackage

Rights--BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.--Lease and Operate, 360 I.C.C. 653 (1980).

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring STB Finance Docket No. 34089, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Esq., BALL JANIK LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: August 31, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary